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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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HURRICANE ELECTRIC LLC,
Plaintiffs,
v.
MILLENNIUM FUNDING, INC., et al.
Defendants.

Case No.: 2:20-cv-01034-JCM-DJA

STIPULATION TO STAY ACTION
PENDING RULING ON CO-PENDING
INSURANCE ACTION BY PLAINTIFF
AGAINST ITS INSURER
(FIRST REQUEST FOR STAY)

Whereas, HURRICANE ELECTRIC, LLC ("Plaintiff"), through its counsel Neil D. Greenstein and Joshua M. Dickey, and MILLENNIUM FUNDING, INC.; BODYGUARD PRODUCTIONS, INC.; UN4 PRODUCTIONS, INC.; HOMEFRONT PRODUCTIONS, INC.; MILLENNIUM MEDIA, INC.; CRIMINAL PRODUCTIONS, INC.; CLEAR SKIES NEVADA, LLC; HUNTER KILLER PRODUCTIONS, INC.; LHF PRODUCTIONS, INC.; RAMBO V PRODUCTIONS, INC.; FALLEN PRODUCTIONS, INC.; WICKED NEVADA, LLC; 211 PRODUCTIONS, INC.; FATHERS & DAUGHTERS NEVADA, LLC; VOLTAGE DEVELOPMENT NCCF, LLC; HB PRODUCTIONS, INC.; STATUS UPDATE, LLC; STOIC

1 PRODUCTIONS, INC.; COBBLER NEVADA, LLC; SURVIVOR PRODUCTIONS, INC.;
 2 TREVOR SHORT; and AVI LERNER (“Defendants”), through their counsel Kerry S. Culpepper
 3 and F. Christopher Austin, stipulate for an order staying this action, pending resolution of Plaintiff’s
 4 insurer’s duty to defend in the case entitled *Hurricane Electric, LLC vs. National Fire Insurance*
 5 *Company of Hartford*, 3:20-cv-05840-CRB pending in the U.S. District Court for the Northern
 6 District of California (“Co-Pending Insurance Action”). Plaintiff and the Defendants are referred to
 7 collectively as “Parties.” Finally, the Parties have agreed that Defendants’ answers or other
 8 responses to the complaint should be set a minimum of 60-days after the stay is lifted so that the
 9 parties can engage in a settlement conference with Magistrate Judge Hixson in the case entitled
 10 *Hurricane Electric, LLC vs. Dallas Buyers Club, LLC et al.*, 3:20-CV-3813-CRB also pending in
 11 the United States District Court for the Northern District of California (“Co-Pending Copyright
 12 Action”) after the ruling in the Co-Pending Insurance Action.

13 Whereas, the Court entered the First Stipulation to Extend Defendants’ Deadline to Answer
 14 and/or Respond to Complaint [Doc. #20]. The First Stipulation granted Defendants up until October
 15 2, 2020 to respond to the Complaint.

16 Whereas, the Court entered the Second Stipulation to Extend Defendants’ Deadline to
 17 Answer and/or Respond to Complaint [Doc. #23]. The Second Stipulation granted Defendants up
 18 until November 2, 2020 to respond to the Complaint.

19 Whereas, the Co-pending Copyright Action was referred to Magistrate Judge Hixson of
 20 the U.S. District Court for the Northern District of California for conducting an early Settlement
 21 Conference per the Parties’ request;

22 Whereas, Magistrate Judge Hixson agreed to conduct the Settlement Conference on behalf
 23 of the plaintiff and the defendants in both this Action and the Co-Pending Copyright Action so
 24 that both disputes could be resolved together;

25 Whereas, the Parties have concluded, and Magistrate Judge Hixson after holding two
 26 telephonic hearings agreed, that an early Settlement Conference would not be fruitful until after
 27 the dispute over the insurer’s duty to defend between Plaintiff and its insurer, National Fire
 28 Insurance Company of Hartford (“NFI”), in the Co-Pending Insurance Action has been resolved

1 or at least substantial progress has been made toward a resolution. A copy of the minutes from
2 the October 12, 2020 scheduling conference with Magistrate Hixson is attached hereto as Exhibit
3 1.

4 Whereas, on October 9, 2020, in the Co-Pending Insurance Action Plaintiff filed a Motion
5 For Partial Summary Judgment On National Fire's Duty To Defend Hurricane Electric in the
6 dispute with defendants here and in the Co-Pending Copyright Action.

7 Whereas the Parties have agreed that all parties in this Action shall reserve all rights and
8 that this requested stay, and the slight delay in this Action, shall not be construed in any manner
9 for or against any party on any issue, whether substantive or procedural.

10 Whereas, the Parties believe that there will be no "possible damage which may result from
11 the granting of a stay" or "hardship or inequity which a party may suffer" since the parties have
12 also agreed in the Northern District of California Action that parties will be allowed to conduct
13 limited third party discovery to preserve evidence. *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110
14 (9th Cir. 2005) (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)). Moreover,
15 consideration of "the orderly course of justice measured in terms of the simplifying or
16 complicating issues" supports granting a stay since a stay will eliminate distraction of anticipated
17 motion practice between the parties until after the dispute between Plaintiff and its insurer, NFI,
18 in the Co-Pending Insurance Action has been resolved or at least substantial progress has been
19 made, thereby simplifying the issues. *Id.*

20 Whereas, the Northern District of California entered a Stay of the Co-Pending Copyright
21 Action on October 19, 2020 per the Parties' joint stipulation similar to the stipulation and order
22 requested in the present action. For the Court's convenience, a filed stamped copy of the
23 Stipulation and Order of Stay issued by Northern District of California in the Co-Pending
24 Copyright Action is attached hereto as Exhibit 2.

25 IT IS HEREBY STIPULATED AND AGREED by the Parties that this Action be
26 STAYED.

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1 The Parties intend to resume the settlement conference proceedings with Magistrate Judge
2 Hixson in the Co-Pending Copyright Action after the Co-Pending Insurance Action has been
3 resolved or substantially progressed.

4 The Parties shall file a status report with this Court by January 4, 2021, or if sooner,
5 promptly after the settlement conference is conducted in the Co-Pending Copyright Action.

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7 Dated this 23rd day of October, 2020.

Dated this 23rd day of October, 2020.

8 **CULPEPPER IP, LLLC**

BAILEY♦KENNEDY

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10 By: /s/ Kerry S. Culpepper
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19 *Attorneys for Defendants*

Attorneys for Plaintiff
Hurricane Electric LLC

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21 IT IS SO ORDERED:

22 UNITED STATES DISTRICT JUDGE

23 DATED: _____